IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 307 of 2000

with

CRIMINAL MISC.APPLICATION No 2592 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

RAMESH SACHHANAND

Versus

STATE OF GUJARAT

Appearance:(In both matters)

MR BP GUPTA for Petitioners

MR SAMIR DAVE, APP for Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 16/11/2000

ORAL JUDGEMENT

#. Heard the learned counsel for the parties.

#. The petitioners prayed for issuance of a writ of mandamus or a writ in the nature of mandamus or any other appropriate, writ, order or direction directing the respondents No. 2 and 3 not to arrest the petitioners unnecessarily by involving them in several prohibition case and further be pleased to direct the respondents No.2 and 3 to disclose before the competent court the offences for which they want to arrest the petitioners. Second prayer has been made for declaration that no remand can be asked for in cases of bailable offences and the respondents be directed to release the petitioners on bail in case of their arrest pursuant to the FIRs which are filed against them without keeping them in police custody for 24 hours and without producing them before the learned Magistrate. Third prayer has been made for direction to the respondents-authorities to release the goods seized by them, namely, 700 Kutta of Gur and other commodities with all consequential and incidental orders.

#. This petition is nothing but only an attempt on the part of the petitioners to abuse the process of this court. No such writ of mandamus as prayed for can be granted in the manner and fashion as what it is sought in the present case. If the respondents are acting contrary to the provisions of the Cr.P.C., then action can be taken before the appropriate remedial forum available. In the cases of prohibition, the petitioners are involved, and rightly when the case is there, the respondents No.2 and 3 have all the right to proceed therein in accordance with law. Same is the case where in case the petitioners are arrested in a bailable case and on their furnishing of bail bonds or personal bonds they are not released on bail or kept in police custody for 24 hours, that action, if it is there, can be questioned in the appropriate remedial forum available but no such writ can be issued. It is a presumption of law that the authorities are to act in accordance with law and in case they are not acting in accordance with law, their action may not be legal for which this is not the stage where such blanket writ can be issued protecting the petitioners. In the result, this special criminal application fails and the same is dismissed. Rule discharged. Interim relief if any, earlier granted stands vacated. The petitioners are directed to pay costs of this petition to the State of Gujarat.

#. In view of the dismissal of the main matter, the criminal misc. application No.2592/2000 does not survive and the same is dismissed.

(S.K.Keshote, J.)

(sunil)